

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

IN THE MATTER OF:)	COMPLAINT NO. R9-2002-0207
)	FOR
MANCHESTER RESORTS)	ADMINISTRATIVE CIVIL LIABILITY
HYATT HOTEL EXPANSION)	WITH
CONSTRUCTION DEWATERING)	MANDATORY MINIMUM PENALTIES
)	
NONCOMPLIANCE WITH)	August 6, 2002
<u>ORDER NO. 2000-90</u>)	

MANCHESTER RESORTS IS HEREBY GIVEN NOTICE THAT:

1. Manchester Resorts is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (SDRWQCB) may impose civil liability pursuant to the Porter-Cologne Water Quality Control Act, California Water Code (CWC), Section 13385 et seq.
2. A public hearing on this matter is tentatively scheduled before the SDRWQCB on September 11, 2002 at the San Diego Regional Water Quality Control Board Office, located at 9174 Sky Park Court, San Diego. The meeting will begin at 9:00 a.m. At the hearing, Manchester Resorts will have the opportunity to be heard and to contest the allegations in this Complaint and the imposition of civil liability by the SDRWQCB. Additional notice of this public hearing and the hearing procedures will be provided to Manchester Resorts prior to the hearing date with the agenda for the SDRWQCB meeting on that date.
3. At the hearing, the SDRWQCB will determine the validity of the allegations contained herein and, if the allegations are found to be true, will consider whether to assess civil liability in the amount proposed by this Complaint, or in some other amount.

ALLEGATIONS

4. During the period from January 2002 through June 2002 Manchester Resorts violated Order No. 2000-90, NPDES No. CAG919001, *General Waste Discharge Requirements for Temporary Groundwater Extraction and Similar Waste Discharges to San Diego Bay and Storm Drains or Other Conveyance Systems Tributary Thereto*. These violations are due to effluent limit exceedances of Copper as reported in the Discharger Self-Monitoring Reports during this time period.

5. The following facts are the basis for the alleged violations in this matter:

Manchester Resorts is approved to discharge the effluent from its dewatering project to San Diego Bay under the provisions of Order No. 2000-90. Table 1 (attached) summarizes the discharge limitations set forth in Order No. 2000-90 and the violations by Manchester Resorts during the period in question.

6. Under California Water Code Section 13385(h) and (i), the amount of the mandatory minimum penalty that must be assessed is \$9,000, as determined by the following statutes:

- a. Water Code Section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for the first serious violation and each additional serious violation in any period of six consecutive months, or, in lieu of the penalty, require the discharger to spend an equal amount for a supplemental environmental project, or to develop a pollution prevention plan.

Three serious violations are assessed \$3,000 per violation, giving a total mandatory minimum penalty of \$9,000.

- b. Water Code Section 13385(i) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in any six-month period:

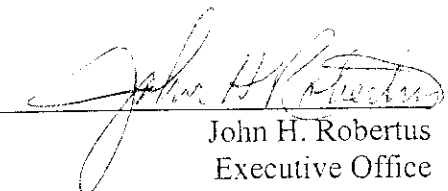
- Exceeds a waste discharge requirement effluent limitation.
- Fails to file a report pursuant to Water Code Section 13260.
- Files an incomplete report pursuant to Water Code Section 13260.
- Exceeds a toxicity discharge limitation where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

PROPOSED CIVIL LIABILITY

7. Pursuant to Section 13385 (h and i) of the California Water Code, mandatory minimum penalties should be imposed on Manchester Resorts, by the SDRWQCB in the amount of \$9,000, the amount of the mandatory minimum penalty, for the above violations.

Dated this 6th day of August 2002

By: _____


John H. Robertus
Executive Office

**Table 1. Violation Summary for Manchester Resorts – Hyatt Hotel Expansion Construction Dewatering
January 2002 through June 2002**

<u>Date of Violation</u>	<u>Violation</u>	<u>Permitted Limit</u>	<u>Reported Value</u>	<u>Pollutant Category</u>	<u>Ratio, Reported: Permitted</u>	<u>Serious/ Chronic</u>	<u>Water Code Section 13385</u>	<u>Penalty</u>
3/5/02	Copper Instantaneous Maximum	4.8 µg/L	5.8 µg/L	2	1.2	Serious	(h)(1)	\$3,000
4/4/02	Copper Instantaneous Maximum	4.8 µg/L	19.3 µg/L	2	4.0	Serious	(h)(1)	\$3,000
5/31/02	Copper 6-month median	3.1 µg/L	5.8 µg/L	2	1.9	Serious	(h)(1)	\$3,000
Total Penalty:								<u>\$9,000</u>

Ratio, Reported:Permitted is used for determining whether a violation is serious or chronic based on the category of the pollutant.